

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date:

JUN 28 1995

Employer Identification Number: [REDACTED]
Key District: Atlanta
Form: 1120
Tax Years: ALL

Dear Applicant:

This is a final adverse ruling on your application for exemption under section 501(c)(3) of the Internal Revenue Code. This ruling was made on the basis of information submitted by you in writing throughout the application process, including your protest of our initial adverse ruling.

This final ruling is made for the following reasons: You have failed to establish that you will be operated exclusively for exempt purposes as required by section 501(c)(3) of the Code. You are primarily engaged in activities that do not further an exempt purpose described in section 501(c)(3).

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the tax years shown above. You should file these returns with your key District Director for exempt organization matters within 30 days from the date of this letter, unless a request for an extension of time is granted. Returns for later years should be filed with the appropriate service center as indicated in the instructions for those returns.

If you decide to contest this ruling under the declaratory judgment provisions of section 7428 of the Code, you must initiate a suit in the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia before the 91st day after the date that this ruling was mailed to you. Contact the clerk of the appropriate

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Telephone Number: [REDACTED]

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Employer Identification Number: [REDACTED]
Key District: Atlanta

Dear Applicant:

We have have considered your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated on [REDACTED] for the purpose of planning and organizing fund raising events such as parties, shows, concerts, etc., to aid designated charities.

You represent that you have four active members: [REDACTED], his wife [REDACTED], [REDACTED], and [REDACTED]. All are members of your Board of Directors. [REDACTED] also holds the title of President, and [REDACTED] as Secretary/Treasurer.

Since formation you have conducted three events held at [REDACTED]. One, was a family picnic that featured Caribbean music held on [REDACTED], to introduce the organization to the community and to let the public know of your planned main event in [REDACTED]. Second, was another family picnic held on [REDACTED], and featured music, dancing, and games.

Your third event, held on [REDACTED], and billed as the main event, was called the [REDACTED] (was also referred to as "[REDACTED]"). The event was advertised as a fund-raising concert to benefit the [REDACTED]. The event was co-hosted by and held at [REDACTED] ([REDACTED]). You have contracted a company to provide sound, lighting and stage equipment and the services of [REDACTED] artists to provide entertainment at the event. For the use of its facilities, [REDACTED] was paid rent plus commissions of [REDACTED]% on door

receipts and █% on vendor receipts at the event. You solicited "donations" for admission and sold food and tee shirts at the event.

The financial data for █ indicates total income of \$█ from both door and vendor receipts and a loan of \$█ from █. Total expenses amounted to \$█ and were paid for equipment, entertainment, rent, commission, food and other event-related expenses. You also paid \$█ for the loan. No funds were shown contributed to █.

You hold Board of Directors meetings each month in 1993 attended by your 4 directors. Copies of minutes of meeting of the Board indicate that each monthly meeting was called to elect your Chairman and Secretary. Each month you elect █ and █ for the respective positions. No other business or activities were discussed as indicated.

Section 501(c)(3) of the Code provides exemption to organizations organized and operated exclusively for charitable or other exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In Make a Joyful Noise, Inc. v. Commissioner, 56 T.C.M. 1003 (1989), the Court concluded that the petitioner was not exempt under section 501(c)(3) of the Code. The petitioner was organized to operate a camp for disadvantaged children and elderly citizens. While the organization maintained this goal during its several years of operation, no progress was made toward its accomplishment. The organization is principally engaged in the conduct of bingo games. The Court did not place any reliance on the organization's charitable goals when evidence showed that no progress had been made towards the achievement of those goals.

The information submitted indicates that you intend to accomplish a charitable purpose of providing funds to charitable organizations by raising funds through holding picnics and musical concerts. The financial data submitted indicated that you have not distributed funds to any charitable organization including the named beneficiary of your events. Rather, funds were used for entertainment and other purposes. While your

activities provided fun and entertainment to the people in the community, they fail to accomplish a purpose described in section 501(c)(3) of the Code. Therefore, you are not operated exclusively for one or more exempt purposes pursuant to section 1.501(c)(3)-1(c)(1) of the regulations.

You are indistinguishable from the organization held by the court in Make a Joyful Noise, Inc. not to qualify for exemption under section 501(c)(3) of the Code. While you have a charitable goal, such is not enough to relied on in granting exemption if there is no evidence that you actually made accomplishment toward such goal.

Therefore, you are not exempt under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code.

You are required to file federal income tax returns on Form 1120.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Cincinnati, Ohio. Thereafter, if you have any questions about your federal income tax status, including

[REDACTED]

questions concerning reporting requirements, please contact your key District Director.

The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely,

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 3

copy: [REDACTED]
Attn: EO Group

copy: [REDACTED]